

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 1:08-cr-10043-JDB-1

TOMMIE HILL,

Defendant.

ORDER GRANTING MOTION TO RECONSIDER,
VACATING ORDER,
AND
DIRECTING CLERK TO OPEN CIVIL CASE AND MODIFY DOCKETS

On April 21, 2016, the Defendant, Tommie Hill, filed a *pro se* “Motion for Emergency Resentencing Upon Overturning of Invalid Priors Used to Enhance” (“resentencing motion”). (Docket Entry (“D.E.”) 105.) On October 24, 2017, Hill was ordered to file a statement advising the Court if he intended his resentencing motion to be a motion to vacate, set aside, or correct his sentence pursuant to **28 U.S.C. § 2255**. (D.E. 109.) The Defendant did not file the required statement. The Court thereafter directed him to show cause why the resentencing motion should not be denied for his failure to comply with the Court’s order and for failure to prosecute. (D.E. 110.) Because the Defendant did not respond to the show-cause order, the Court denied his motion on December 27, 2017. (D.E. 111.) On February 2, 2018, Hill filed a motion for reconsideration of the December 2018 order, explaining that he never received the Court’s previous orders. (D.E. 113.) He subsequently filed a statement requesting that the Court construe his resentencing motion as a § 2255 motion. (D.E. 115.) On May 2, 2018, the inmate filed a motion styled “Motion for Relief Pursuant to Recent U.S. Supreme Court Decision,”

arguing that he is entitled to relief under *Sessions v. DiMaya*, 138 S. Ct. 1204 (2018). (D.E. 116.)

The Court has learned from the Clerk's Office that the orders directing Hill to file a statement and to show cause were inadvertently never sent to him. Accordingly, for good cause shown, the motion for reconsideration is GRANTED. The December 27, 2017, order is hereby VACATED.

The Clerk is DIRECTED to open a new civil case, in which the following documents are to be filed: (1) the resentencing motion at D.E. 105 as a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255, together with the exhibits at D.E. 105-1, 105-2, and 105-3, and (2) the motion at D.E. 116 as "Supplement to § 2255 Motion." The Clerk is FURTHER DIRECTED to terminate the motion at D.E. 116 in this criminal case.

IT IS SO ORDERED this 15th day of August 2018.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE